

SEP 21 1983

ALEXANDER L. STEVAS,
CLERK

No. 83-245

IN THE
Supreme Court of the United States

OCTOBER TERM, 1983

PENSION BENEFIT GUARANTY CORPORATION
and OREGON-WASHINGTON CARPENTERS-
EMPLOYERS PENSION TRUST FUND,

Appellants,

v.

R.A. GRAY & COMPANY,

Appellee.

On Appeal From the United States Court of Appeals
For the Ninth Circuit

**SUPPLEMENT TO BRIEF OF AMICUS CURIAE
G & R ROOFING COMPANY**

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**SUPPLEMENT TO BRIEF OF *AMICUS CURIAE*
G & R ROOFING COMPANY**

On September 14, 1983, G & R Roofing Company ("G & R"), pursuant to Sup. Ct. R. 28.2 and 36.1, filed its motion for leave to file a brief *amicus curiae* and filed its brief *amicus curiae*.¹

¹ G & R's motion for leave to file its brief *amicus curiae* is pending before the Court. If the Court grants that motion, it is further respectfully requested that the Court grant G & R leave to file this supplement to its brief *amicus curiae*.

G & R urged the Court to withhold consideration of the jurisdictional statement and the scheduling of oral argument in this case until the United States Court of Appeals for the Ninth Circuit ruled on the Carpenters Pension Trust for Southern California's petition for rehearing and suggestion for rehearing *en banc* in *Shelter Framing Corp. v. Carpenters Pension Trust for Southern California*, 705 F.2d 1502 (9th Cir. 1983).

On September 13, 1983, the Ninth Circuit denied the petition for rehearing and rejected the suggestion for rehearing *en banc*. A copy of the Ninth Circuit's order is attached hereto as an appendix. That order was not received by counsel for G & R until September 15, 1983, after the aforementioned motion and brief *amicus curiae* were filed with the Court.

The fact that the Ninth Circuit has now denied the petition for rehearing and rejected the suggestion for rehearing *en banc* further supports G & R's suggestion that the Court defer consideration of the jurisdictional statement. Counsel for G & R has been advised that the Carpenters Pension Trust for Southern California intends to promptly file a petition for a writ of certiorari with this Court, giving the Court an opportunity to review the full decision and record of the court of appeals in the *Shelter Framing Corp.* case.

Respectfully submitted,

MERRILL AND SCHULTZ

Michael E. Merrill, Esq.

Counsel for *Amicus Curiae*

APPENDIX

A-1

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

SEP 13 1983

PHILLIP B. WINBERRY
CLERK, U.S. COURT OF APPEALS

SHELTER FRAMING CORPORATION,

Plaintiff/Appellee,

vs.

CARPENTERS PENSION TRUST FOR SOUTHERN
CALIFORNIA,

Defendant/Appellant.

No. 82-5460

ORDER

G&R ROOFING COMPANY,

Plaintiff/Appellee,

v.

CARPENTERS PENSION TRUST FOR SOUTHERN
CALIFORNIA,

Defendant/Appellant.

No. 82-5461

Judges Wright, Kennedy and Boochever vote to deny the Petition for Rehearing and to reject the Suggestion for Rehearing En Banc filed by Carpenters Pension Trust for Southern California.

